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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Aida Esmeralda Campos, *et al.*,

10 Plaintiffs,

11 v.

12 Arizona Board of Regents, *et al.*,

13 Defendants.  
14

No. CV-24-00987-PHX-JJT

**ORDER**

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16 At issue is the University Defendants' Motion to Transfer to the undersigned a sister  
17 case of the above-captioned action. (*See* Doc. 102, Motion.) Plaintiffs have filed a response  
18 in opposition (Doc. 104, Response), and the University Defendants have filed a reply  
19 (Doc. 106, Reply). The Court finds this matter appropriate for resolution without oral  
20 argument. *See* LRCiv 7.2(f). For the reasons set forth below, the Court denies the Motion.

21 **I. Background**

22 The Court recently summarized the background of this case and perceives no  
23 advantage in doing so again here. (*See* Doc. 103 at 2–5.) In brief, a group of current and  
24 former ASU students sued ASU,<sup>1</sup> a smattering of ASU employees, the Maricopa County  
25 Sheriff, and the Arizona Department of Public Safety alleging that ASU engaged in illegal  
26 speech-based retaliation by imposing harsh disciplinary measures in response to protected  
27 anti-Israel speech espoused at a pro-Palestine protest. The Court will refer to this case as

28 <sup>1</sup> The juridical embodiment of Arizona State University (“ASU”) is the Arizona Board of Regents, but for the sake of simplicity the Court will refer herein only to ASU.

1 the “Speech Case.” There were originally twenty plaintiffs in the Speech Case. Separately,  
 2 three of those plaintiffs and one additional plaintiff who is a non-party in the Speech Case  
 3 brought suit against a functionally identical set of defendants alleging a violation of their  
 4 right to freely exercise their religion. (*See* No. CV-25-1362-PHX-ROS (JZB) Doc. 19.)  
 5 The Court will refer to this case as the “Free Exercise Case.” Because the defendants in the  
 6 Speech Case and the Free Exercise Case are identical, the Court will adopt the usage  
 7 employed in its prior Order, whereby the “University Defendants” are all defendants except  
 8 the Maricopa County Sheriff and the Arizona Department of Public Safety. (*See* Doc. 103  
 9 at 1.) The four plaintiffs in the Free Exercise Case, all of whom are female, allege that  
 10 Defendants violated their religious rights by forcing them to remove their hijabs in the  
 11 presence of male police officers. (*See* No. CV-25-1362-PHX-ROS (JZB) Doc. 19 ¶¶ 79,  
 12 94.)

13 On July 21, 2025, the University Defendants filed the instant Motion to Transfer.  
 14 Seven days later, the Court issued an Order in the Speech Case dismissing the claims  
 15 against the Maricopa County Sheriff, the Arizona Department of Public Safety, and all  
 16 University Defendants except ASU and Michael Crow. (*See* Doc. 103.) In the Free  
 17 Exercise Case, the Maricopa County Sheriff has filed an answer, but neither the Arizona  
 18 Department of Public Safety nor the University Defendants have yet responded. (*See* No.  
 19 CV-25-1362-PHX-ROS (JZB) Docs. 22, 29, 33.)

## 20 **II. Legal Standard**

21 Federal Rule of Civil Procedure 42(a) permits the Court to consolidate two actions  
 22 that “involve a common question of law or fact.” The University Defendants have not  
 23 requested a consolidation. Rather, they seek a transfer under Local Rule of Civil Procedure  
 24 42.1(a), whereby the undersigned would preside over both cases, but the cases would retain  
 25 their separate identities. (*See* Motion at 1.) Local Rule 42.1(a) provides that:

26 When two or more cases are pending before different Judges, a party in any  
 27 of those cases may file a motion to transfer the case or cases to a single Judge  
 28 on the ground that the cases: (1) arise from substantially the same transaction  
 or event; (2) involve substantially the same parties or property; (3) involve

1 the same patent, trademark, or copyright; (4) call for determination of  
 2 substantially the same questions of law; or (5) for any other reason would  
 3 entail substantial duplication of labor if heard by different Judges.

4 The standard that applies to motions to consolidate under Federal Rule 42(a) is similar to  
 5 the standard that applies to motions to transfer under Local Rule 42.1(a). *Green Home*  
 6 *Rentals LLC v. United States Internal Revenue Serv.*, No. CV-24-03630-PHX-SHD, 2025  
 7 WL 1993564, at \*1 (D. Ariz. July 17, 2025). Under both standards, the Court possesses  
 8 “broad discretion” to grant or deny a consolidation or transfer. *Id.* The satisfaction of one  
 9 or more of the factors enumerated in Local Rule 42.1(a) merely permits a litigant to file a  
 10 motion to transfer, but such satisfaction does not compel the Court to grant the motion.  
 11 *Smith v. Sperling*, No. 11-0722-PHX-PGR, 2011 WL 4101508, at \*1 (D. Ariz. Sept. 14,  
 12 2011).

### 13 **III. Discussion**

14 Transfer is not appropriate here. The two lawsuits do not arise out of the same  
 15 transaction or event. Although the alleged violation of religious rights in the Free Exercise  
 16 Case occurred in the aftermath of the protest that engendered the Speech Case, that  
 17 similarity is superficial. The specific events giving rise to the claims in the two cases are  
 18 distinct. Whether the University Defendants violated free-exercise rights by forcing  
 19 women to remove their hijabs in police custody will be determined largely independently  
 20 of whether the University Defendants violated free-speech rights by imposing academic  
 21 discipline in retaliation against anti-Israel speech. In other words, although these cases  
 22 share a common factual background, they do not arise out of a common nucleus of  
 23 *operative* facts. That the pleading in the Free Exercise Case contains several  
 24 copied-and-pasted allegations from the pleading in the Speech Case does not alter this  
 25 conclusion. (*See* Reply at 2–3.) From the Court’s vantage, it seems that counsel in the two  
 26 cases pled in the manner he did in order to achieve a gain in efficiency. And even if that  
 27 supposition is incorrect, the Court nevertheless remains focused upon the operative facts  
 28 of the two cases, not the narrative facts. The divergent litigation conduct by the Maricopa

1 County Sheriff illustrates that the two cases' underlying events are materially different. In  
2 the Speech Case, he filed and prevailed upon a motion to dismiss. In the Free Exercise  
3 Case, he filed an answer. The litigation strategy of a party is of course not dispositive of a  
4 motion to transfer, but in this instance it does serve to highlight the different natures of the  
5 two cases.

6 Additionally, the two cases involve entirely separate bodies of law. Although free  
7 speech and free exercise both find their genesis in the First Amendment, the jurisprudence  
8 that has developed around the two rights is distinct.

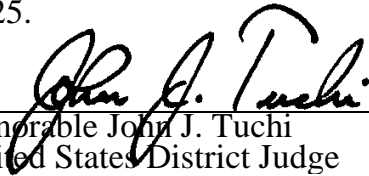
9 Given the absence of meaningfully common facts or law, a transfer would generate  
10 limited benefits to judicial economy. The University Defendants argue that the two cases  
11 would profit from a shared discovery regime if and when both cases proceed to discovery.  
12 (Motion at 7–8.) This argument is well-taken, but it is premature. First, the Free Exercise  
13 Case appears to be nowhere close to the discovery phase of litigation. Second, even if both  
14 cases were to advance to discovery, the Court would be hesitant to order a transfer, and  
15 thereby disturb the ordinary administration of justice, without a particularized showing that  
16 a mutual discovery regime is meaningfully superior to separate tracks. And even then, the  
17 Court could fashion a narrow consolidation of discovery, rather than a wholesale transfer.  
18 *See* Fed. R. Civ. P. 42(a) (permitting the consolidation of individual “matters at issue in  
19 the actions,” and also permitting the issuance of “any other orders to avoid unnecessary  
20 cost or delay”); *see also In re TFS Elec. Mfg. Servs., Inc.*, No. BK-05-15403-PHX-RTV,  
21 2007 WL 446345, at \*3 (D. Ariz. Feb. 7, 2007) (consolidating cases for discovery).

22 Finally, the Court agrees with the points raised by the plaintiffs regarding the  
23 pernicious effect of even the appearance of judge-shopping. (*See* Response at 8.) To be  
24 clear, the Court does *not* find that the University Defendants have engaged in  
25 judge-shopping. Nevertheless, the Court recognizes that transferring a case in the absence  
26 of a substantial justification can give rise to an untoward perception. This is especially true  
27 where, as here, the request for a transfer is not accompanied by a request for consolidation.  
28 Where the gains to judicial economy derivative of a consolidation are absent, the

1 appearance of judge-shopping is more pronounced. For that reason, the Court will not  
2 lightly order a transfer. Here, the aspects of the two cases favoring a transfer are  
3 insufficiently weighty to overcome the Court's aversion to transfers for the reasons set  
4 forth above. The Court will therefore deny the motion without prejudice to the bringing of  
5 a similar motion at a later juncture.

6 **IT IS THEREFORE ORDERED** denying without prejudice the University  
7 Defendants' Motion to Transfer (Doc. 102).

8 Dated this 11th day of August, 2025.

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11 Honorable John J. Tuchi  
12 United States District Judge  
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